

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMAHLL BOUDREAUX,

Plaintiff,

vs

Case No: 10-11404
Honorable Victoria A. Roberts

YOLANDA MENDOZA,

Defendant.

_____/

ORDER

The Magistrate Judge issued a Report and Recommendation (Doc. #9) on Defendant's Motion for Summary Judgment and Motion to Dismiss. No objections were filed.

The Magistrate Judge presents alternative recommendations to the Court. The first is that the Court may want to consider requiring defendant to show cause why the case should not be remanded to state court, since plaintiff says in one of his filings that he did not intend for his complaint for mandamus "to be interpreted as a claim asserting a constitutional violation." Instead, Plaintiff says he intended to compel Defendant to comply with the Michigan Court Rules.

Defendant removed this case from state court, saying in its petition that removal was based on the premise that Plaintiff alleged Defendant failed to provide him with documents for postconviction proceedings, depriving him of due process under the Fifth and Fourteenth Amendments to the United States Constitution. Accordingly, this was a proper removal petition, and the court will not hold a show cause hearing.

Because the Court has not received objections from either party within the time frame provided for in 28 U.S.C. §636(b)(1) and E.D. Mich. LR 72.1(d)(3), the Court declines to require the Defendant to Show Cause why the case should not be remanded and adopts the portion of the Magistrate Judge's Report and Recommendation **GRANTING** Defendant's Motion for Summary Judgment and Motion to Dismiss.

IT IS ORDERED.

/s/ Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: June 14, 2011

The undersigned certifies that a copy of this document was served on the attorneys of record and Jamahl Mendoza by electronic means or U.S. Mail on June 14, 2011.

s/Linda Vertriest
Deputy Clerk